


Kristina Lawson, J.D., Chair
Panel B

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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the First Amended Accusation Against:

14 **DAVID MINHO RHEE, M.D.**
15 500 West Hospital Road
French Camp, CA 95231

16 Physician's and Surgeon's Certificare No. A 101726

17 Respondent.

Case No. 800-2015-018218

OAH No. 2017031256

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

18
19
20 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
24 Board of California ("Board"). She brought this action solely in her official capacity and is
25 represented in this matter by Xavier Becerra, Attorney General of the State of California, by John
26 S. Gatschet, Deputy Attorney General.

27 2. Respondent David Minho Rhee, M.D. ("Respondent") is represented in this
28 proceeding by attorney David P. Foos, whose address is:

1 David Foos
2 Foos Gavin Law Firm
3 3947 Lennane Drive, Suite 120
4 Sacramento, CA 95834

5 3. On or about October 3, 2007, the Board issued Physician's and Surgeon's Certificate
6 No. A 101726 to Respondent. The Physician's and Surgeon's Certificate No. A 101726 was in
7 full force and effect at all times relevant to the charges brought in First Amended Accusation No.
8 800-2015-018218, and will expire on February 28, 2019, unless renewed.

9 **JURISDICTION**

10 4. First Amended Accusation No. 800-2015-018218 was filed before the Board, and is
11 currently pending against Respondent. The First Amended Accusation and all other statutorily
12 required documents were properly served on Respondent on August 23, 2017. Respondent timely
13 filed his Notice of Defense contesting the First Amended Accusation.

14 5. A copy of the First Amended Accusation No. 800-2015-018218 is attached as exhibit
15 A and incorporated herein by reference.

16 **ADVISEMENT AND WAIVERS**

17 6. Respondent has carefully read, fully discussed with counsel, and understands the
18 charges and allegations in the First Amended Accusation No. 800-2015-018218. Respondent has
19 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
20 Settlement and Disciplinary Order.

21 7. Respondent is fully aware of his legal rights in this matter, including the right to a
22 hearing on the charges and allegations in the First Amended Accusation; the right to confront and
23 cross-examine the witnesses against him; the right to present evidence and to testify on his own
24 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
25 production of documents; the right to reconsideration and court review of an adverse decision;
26 and all other rights accorded by the California Administrative Procedure Act and other applicable
27 laws.

28 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
every right set forth above.

1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in the First
3 Amended Accusation No. 800-2015-018218, if proven at a hearing, constitute cause for imposing
4 discipline upon his Physician's and Surgeon's Certificate No. A 101726.

5 10. For the purpose of resolving the First Amended Accusation without the expense and
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
7 establish a factual basis for the charges in the First Amended Accusation, and that Respondent
8 hereby gives up his right to contest those charges.

9 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
10 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
11 Disciplinary Order below.

12 12. Respondent agrees that if he ever petitions for early termination or modification of
13 probation, or if an accusation and/or petition to revoke probation is filed against him before the
14 Board, all of the charges and allegations contained in First Amended Accusation No. 800-2015-
15 018218, shall be deemed true, correct, and fully admitted by respondent for purposes of any such
16 proceeding or any other licensing proceeding involving respondent in the State of California.

17 **RESERVATION**

18 13. The admissions made by Respondent herein are only for the purposes of this
19 proceeding, or any other proceedings in which the Medical Board of California or other
20 professional licensing agency is involved, and shall not be admissible in any other criminal or
21 civil proceeding.

22 **CONTINGENCY**

23 14. This stipulation shall be subject to approval by the Medical Board of California.
24 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
25 Board of California may communicate directly with the Board regarding this stipulation and
26 settlement, without notice to or participation by Respondent or his counsel. By signing the
27 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
28 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails

1 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
2 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
3 action between the parties, and the Board shall not be disqualified from further action by having
4 considered this matter.

5 15. The parties understand and agree that Portable Document Format (PDF) and facsimile
6 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
7 signatures thereto, shall have the same force and effect as the originals.

8 16. In consideration of the foregoing admissions and stipulations, the parties agree that
9 the Board may, without further notice or formal proceeding, issue and enter the following
10 Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. A 101726
13 issued to Respondent David Minh Rhee, M.D. is revoked. However, the revocation is stayed
14 and Respondent is placed on probation for three (3) years on the following terms and conditions.

15 1. **COMMUNITY SERVICE - FREE SERVICES.** Within 60 calendar days of the
16 effective date of this Decision, Respondent shall submit to the Board or its designee for prior
17 approval a community service plan in which Respondent shall, within the first 3 years of
18 probation, provide 100 hours of free services (e.g., medical or nonmedical) to a community or
19 non-profit organization. If the term of probation is designated for 2 years or less, the community
20 service hours must be completed not later than 6 months prior to the completion of probation.

21 Prior to engaging in any community service, Respondent shall provide a true copy of the
22 Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief
23 executive officer at every community or non-profit organization where Respondent provides
24 community service and shall submit proof of compliance to the Board or its designee within 15
25 calendar days. This condition shall also apply to any change(s) in community service.

26 Community service performed prior to the effective date of the Decision shall not be
27 accepted in fulfillment of this condition.

28 ///

1 2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
2 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
3 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
4 Respondent shall participate in and successfully complete that program. Respondent shall
5 provide any information and documents that the program may deem pertinent. Respondent shall
6 successfully complete the classroom component of the program not later than six (6) months after
7 Respondent's initial enrollment, and the longitudinal component of the program not later than the
8 time specified by the program, but no later than one (1) year after attending the classroom
9 component. The professionalism program shall be at Respondent's expense and shall be in
10 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

11 A professionalism program taken after the acts that gave rise to the charges in the
12 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
13 or its designee, be accepted towards the fulfillment of this condition if the program would have
14 been approved by the Board or its designee had the program been taken after the effective date of
15 this Decision.

16 Respondent shall submit a certification of successful completion to the Board or its
17 designee not later than 15 calendar days after successfully completing the program or not later
18 than 15 calendar days after the effective date of the Decision, whichever is later.

19 3. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
20 Respondent shall submit to the Board or its designee for prior approval the name and
21 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
22 has a doctoral degree in psychology and at least five years of postgraduate experience in the
23 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
24 undergo and continue psychotherapy treatment, including any modifications to the frequency of
25 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

26 This condition shall be mandatory for the first year of probation only, subject to the
27 following exceptions listed below. Following the first year of probation, and within 60 days of
28 the one-year anniversary of the effective date of the decision, the psychotherapist shall prepare a

1 final report summarizing Respondent's treatment over the past year, and shall provide an analysis
2 regarding Respondent's ability to safely practice medicine, his diagnosis pursuant to the DSM-V,
3 whether further psychotherapy is needed, and whether there are any remaining concerns regarding
4 Respondent's mental health. If the psychotherapist determines that Respondent is mentally unfit
5 to continue the practice of medicine without continued psychotherapy, this term shall become
6 mandatory during the remaining two-year period of probation. Furthermore, as listed below the
7 Board shall retain continuing jurisdiction over Respondent's license and the probationary period
8 shall be extended if the Board determines that Respondent is mentally unfit to practice medicine
9 without psychotherapy.

10 The psychotherapist shall consider any information provided by the Board or its designee
11 and any other information the psychotherapist deems relevant and shall furnish a written
12 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
13 psychotherapist with any information and documents that the psychotherapist may deem
14 pertinent.

15 Respondent shall have the treating psychotherapist submit quarterly status reports to the
16 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
17 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
18 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
19 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
20 period of probation shall be extended until the Board determines that Respondent is mentally fit
21 to resume the practice of medicine without restrictions.

22 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

23 4. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
24 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
25 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
26 licenses are valid and in good standing, and who are preferably American Board of Medical
27 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
28 relationship with Respondent, or other relationship that could reasonably be expected to

1 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
2 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
3 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

4 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
5 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
6 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
7 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
8 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
9 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
10 signed statement for approval by the Board or its designee.

11 Within 60 calendar days of the effective date of this Decision, and continuing throughout
12 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
13 make all records available for immediate inspection and copying on the premises by the monitor
14 at all times during business hours and shall retain the records for the entire term of probation.

15 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
16 date of this Decision, Respondent shall receive a notification from the Board or its designee to
17 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
18 shall cease the practice of medicine until a monitor is approved to provide monitoring
19 responsibility.

20 The monitor(s) shall submit a quarterly written report to the Board or its designee which
21 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
22 are within the standards of practice of medicine, and whether Respondent is practicing medicine
23 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
24 that the monitor submits the quarterly written reports to the Board or its designee within 10
25 calendar days after the end of the preceding quarter.

26 At the conclusion of the first year of practice monitoring, the practice monitor shall submit
27 a written report to the Board which shall indicate whether the Respondent is practicing medicine
28 safely and whether there are any remaining areas of practice deficiency. If the practice monitor

1 determines that Respondent no longer needs further practice monitoring and so states in the
2 written report and the Board in its sole discretion determines that further practice monitoring is no
3 longer needed, this condition shall be deemed satisfied and will no longer be enforced as part of
4 Respondent's probation. If the practice monitor identifies areas of continued deficiency that
5 require additional monitoring and/or the Board determines additional practice monitoring is
6 needed, this condition shall extend for an additional year of probation.

7 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
8 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
9 name and qualifications of a replacement monitor who will be assuming that responsibility within
10 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
11 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
12 notification from the Board or its designee to cease the practice of medicine within three (3)
13 calendar days after being so notified. Respondent shall cease the practice of medicine until a
14 replacement monitor is approved and assumes monitoring responsibility.

15 In lieu of a monitor, Respondent may participate in a professional enhancement program
16 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
17 review, semi-annual practice assessment, and semi-annual review of professional growth and
18 education. Respondent shall participate in the professional enhancement program at Respondent's
19 expense during the term of probation.

20 5. BATTERER TREATMENT PROGRAM. Within seven (7) days of the effective date
21 of this Decision, the Respondent shall enroll in a Batterer Treatment Program as defined in Penal
22 Code 1203.097, subdivision (a)(6) and (c). If Respondent is already enrolled in a Batterer
23 Treatment Program, he shall continue attending that program until completion. Respondent shall
24 successfully complete the Batterer Treatment Program within 18 months of the effective date of
25 this decision.

26 Respondent shall provide proof of compliance with the Batterer Treatment Program to the
27 Board every six months and shall provide proof of final completion within 30 days of completing
28 the program. A Batterer Treatment Program that has been Court ordered as part of the

Respondent's criminal probation in Sacramento Superior Court Case No. 16FE006645 shall satisfy this condition. In satisfaction of this probation condition, Respondent shall be given credit for all Batterer Treatment Classes that were completed as a part of his criminal probation before the effective date of this disciplinary order and decision. Failure to complete a Batterer Treatment Program shall result in a violation of probation.

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

1 Address Changes

2 Respondent shall, at all times, keep the Board informed of Respondent's business and
3 residence addresses, email address (if available), and telephone number. Changes of such
4 addresses shall be immediately communicated in writing to the Board or its designee. Under no
5 circumstances shall a post office box serve as an address of record, except as allowed by Business
6 and Professions Code section 2021(b).

7 Place of Practice

8 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
9 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
10 facility.

11 License Renewal

12 Respondent shall maintain a current and renewed California physician's and surgeon's
13 license.

14 Travel or Residence Outside California

15 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
16 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
17 (30) calendar days.

18 In the event Respondent should leave the State of California to reside or to practice,
19 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
20 departure and return.

21 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
22 available in person upon request for interviews either at Respondent's place of business or at the
23 probation unit office, with or without prior notice throughout the term of probation.

24 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
25 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
26 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
27 defined as any period of time Respondent is not practicing medicine as defined in Business and
28 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct

1 patient care, clinical activity or teaching, or other activity as approved by the Board. If
2 Respondent resides in California and is considered to be in non-practice, Respondent shall
3 comply with all terms and conditions of probation. All time spent in an intensive training
4 program which has been approved by the Board or its designee shall not be considered non-
5 practice and does not relieve Respondent from complying with all the terms and conditions of
6 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
7 on probation with the medical licensing authority of that state or jurisdiction shall not be
8 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
9 period of non-practice.

10 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
11 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
12 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
13 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
14 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

15 Respondent's period of non-practice while on probation shall not exceed two (2) years.

16 Periods of non-practice will not apply to the reduction of the probationary term.

17 Periods of non-practice for a Respondent residing outside of California will relieve
18 Respondent of the responsibility to comply with the probationary terms and conditions with the
19 exception of this condition and the following terms and conditions of probation: Obey All Laws;
20 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
21 Controlled Substances; and Biological Fluid Testing.

22 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
23 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
24 completion of probation. Upon successful completion of probation, Respondent's certificate shall
25 be fully restored.

26 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
27 of probation is a violation of probation. If Respondent violates probation in any respect, the
28 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and

1 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
2 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
3 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
4 the matter is final.

5 15. LICENSE SURRENDER. Following the effective date of this Decision, if
6 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
7 the terms and conditions of probation, Respondent may request to surrender his or her license.
8 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
9 determining whether or not to grant the request, or to take any other action deemed appropriate
10 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
11 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
12 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
13 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
14 application shall be treated as a petition for reinstatement of a revoked certificate.

15 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
16 with probation monitoring each and every year of probation, as designated by the Board, which
17 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
18 California and delivered to the Board or its designee no later than January 31 of each calendar
19 year.

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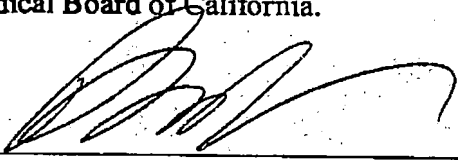
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1 ACCEPTANCE

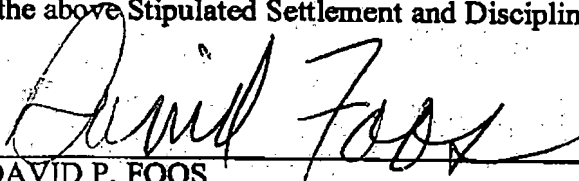
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, David P. Foos. I understand the stipulation and the effect it will
4 have on my Physician's and Surgeon's Certificate No. A 101726. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Medical Board of California.

7
8 DATED: 12/14/2017


9 DAVID MINHO RHEE, M.D.
Respondent

10 I have read and fully discussed with Respondent David Minh Rhee, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 12/14/17


14 DAVID P. FOOS
Attorney for Respondent

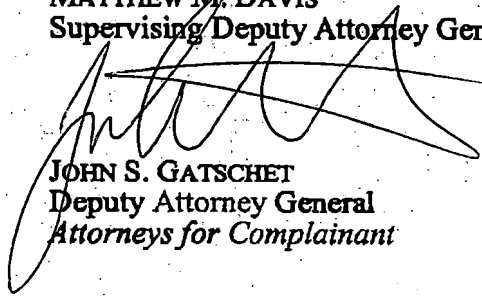
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16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Medical Board of California.

19 Dated: 12-14-17

Respectfully submitted,

20 XAVIER BECERRA
Attorney General of California
21 MATTHEW M. DAVIS
Supervising Deputy Attorney General

22 
23 JOHN S. GATSCHET
24 Deputy Attorney General
25 Attorneys for Complainant
26
27

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Exhibit A

First Amended Accusation No. 800-2015-018218

1 XAVIER BECERRA
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the First Amended Accusation Against:

14 **David Minho Rhee, M.D.**
15 500 West Hospital Road
French Camp, CA 95231

16 Physician's and Surgeon's Certificate No. A 101726,

17 Respondent.

Case No. 800-2015-018218

FIRST AMENDED
ACCUSATION

18
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer ("Complainant") brings this First Amended Accusation solely
22 in her official capacity as the Executive Director of the Medical Board of California, Department
23 of Consumer Affairs ("Board").

24 2. On or about October 3, 2007, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 101726 to David Minho Rhee, M.D. ("Respondent"). That license was in
26 full force and effect at all times relevant to the charges brought herein and will expire on February
27 28, 2019, unless renewed.

28 ///

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Aug 21 20 17
BY D. Richards ANALYST

JURISDICTION

3. This First Amended Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states, in pertinent part,

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following..."

6. Section 2236 of the Code states, in pertinent part,

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"...

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

7. Section 820 of the Code states, in pertinent part:

"Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licensee's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licensee to be examined by one or more physicians and surgeons or psychologists designated by the agency.

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2 The report of the examiners shall be made available to the licensee and may be received as direct
3 evidence in proceedings conducted pursuant to Section 822.”

4 8. Section 821 of the Code provides that the licensee’s failure to comply with an order
5 issued under section 820 shall constitute grounds for the suspension or revocation of the
6 licensee’s certificate or license.

7 9. Code of California Regulations, Title 16, section 1360, states, in pertinent part:

8 “For the purposes of denial, suspension or revocation of a license, certificate or permit
9 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
10 considered substantially related to the qualifications, functions or duties of a person holding a
11 license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences
12 present or potential unfitness of a person holding a license, certificate, or permit to perform the
13 functions authorized by the license, certificate or permit in a manner consistent with the public
14 health, safety or welfare. Such crimes or acts shall include but not be limited to the following:
15 Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation
16 of, or conspiring to violate any provision of the Medical Practice Act.”¹

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct/Failure to Comply with Order of Examination)**

19 10. Respondent’s license is subject to disciplinary action under sections 2234 and 821 of
20 the Code in that Respondent has failed to comply with an Order issued pursuant to section 820 of
21 the Code. The circumstances are as follows:

22 11. On December 27, 2016, the Complainant filed a Petition to Compel a Psychiatric
23 Examination pursuant to section 820 of the Code.

24 12. On January 9, 2017, the Board granted the Petition and issued an Order Compelling a
25 Psychiatric Examination (“Order”). Said Order was served at Respondent’s address of record, to

26 ¹ The Medical Board’s power to discipline a licensee for a crime substantially related to
27 the practice of medicine was explored in *Windham v. Board of Medical Quality Assurance*
28 (1980), 104 Cal.App.3d. 461. A case before the Department of Real Estate found that a
misdemeanor conviction for Penal Code 273.5 is substantially related to licensure. *Donley v. Davi*
(2009) 180 Cal.App.4th 447, 463.

1 wit: 500 West Hospital Road, French Camp, CA 95231. The Order advised Respondent that he
2 was required to contact the Medical Board, that he was required to comply with the Order, and to
3 undergo and complete the required examination within 30 days of the date of the issuance of the
4 Order.

5 13. On January 11, 2017, Senior Investigator R.M. of the Health Quality Investigation
6 Unit, Sacramento Office, on behalf of the Board made telephonic contact with Respondent and
7 Respondent verbally confirmed that he had received the Order from the Board. R.M. and
8 Respondent made arrangements to have Respondent comply with the Board's Order.

9 14. On January 11, 2017, at approximately 5:09 p.m., following his earlier telephonic
10 conversation with R.M., Respondent left a voicemail with R.M. stating that he refused to be
11 mentally evaluated by a Board retained expert pursuant to the Order. Also on January 11, 2017,
12 at 7:07 p.m., Respondent sent an e-mail with an attached letter to R.M., acknowledging his receipt
13 of the Board's Order, requesting that the Board withdraw the Order, and stating that he was
14 refusing to undergo a psychiatric evaluation.

15 15. As of February 9, 2017, and continuing to the present day, Respondent has failed to
16 comply with the Board's Order Compelling a Psychiatric Examination within 30 days of service
17 of the order.

18 SECOND CAUSE FOR DISCIPLINE

19 (Conviction of a Crime Substantial Related to the Practice of Medicine)

20 16. Respondent's license is subject to disciplinary action under sections 2234 and 2236 of
21 the Code, and Title 16 of the Code of California Regulations section 1360, in that Respondent has
22 been convicted of crimes substantially related to the practice of medicine. The circumstances are
23 as follows:

24 November 2, 2015 Incident

25 17. On or about November 2, 2015, Elk Grove Police Officers contacted Respondent's
26 wife ("V"). She reported that she had been married to Respondent for one year and that they have
27 a child in common. V stated on November 1, 2015, that Respondent slapped her on the top of her
28 head. She reported that Respondent had hit her previously in December 2013 and in April 2014.

1 V stated on November 2, 2015, Respondent again slapped her, this time on the left side of her
2 face during a verbal argument. There were no visible injuries. Respondent admitted that there
3 was a verbal argument on November 2, 2015, and that he made possible physical contact with V.
4 Respondent was placed under arrest for a violation of Penal Code 243(e)(1), spousal battery in
5 Elk Grove Police Department Case No. 15-007976. Formal criminal charges were dismissed
6 related to this arrest.

7 November 15, 2015 Incident

8 18. On or about November 15, 2015, V reported that Respondent slapped her on the side
9 of the face during a verbal argument and knocked her to the ground. V tried to call 911 but
10 Respondent grabbed her cell phone and threw it in a tub of water. V's mother intervened and
11 Respondent left the room. V called police. When police arrived, Respondent refused to open the
12 front door. V asked Officers to kick in the door for her protection and they complied.
13 Respondent was arrested. V had swelling to her left cheek and left forearm. Respondent denied
14 having physical contact with V but did admit to throwing her cell phone in the bathtub.
15 Respondent was placed under arrest for a violation of Penal Code 273.5(a)(1), corporal injury to a
16 spouse, in Elk Grove Police Department Case No. 15-008282. On July 17, 2017, in Sacramento
17 Superior Court Case No. 16FE006645, Respondent was found guilty of a misdemeanor violation
18 of Penal Code 273.5(a)(1), related to this arrest.

19 February 6, 2016 Incident

20 19. On or about February 6, 2017, V reported that she had previously had a stay away
21 order against Respondent but that she had the order converted to a peaceful contact order. V
22 stated she is 6 weeks pregnant with Respondent's second child. On February 5, 2016,
23 Respondent asked that V write a letter to the DA's office to help him with his cases. Respondent
24 wanted V to write that she lied about incidents on November 2, 2015, and November 15, 2015.
25 Respondent became angry when he learned from his attorney that there was still enough evidence
26 for a conviction. On February 6, 2016, Respondent became verbally abusive with V. Respondent
27 demanded that V sign away her property interest in their residence. V refused. A warrant in Elk
28 Grove Police Department Case No. 16-000920 was issued pursuant to Penal Code 273.6 for

1 Respondent's arrest due to him violating the peaceful contact order. On July 17, 2017, in
2 Sacramento Superior Court Case No. 16FE006645, Respondent was acquitted of a violation of
3 Penal Code 273.6, related to this arrest.

4 March 5, 2016 Incident

5 20. On July 17, 2017, in Sacramento Superior Court Case No. 16FE006645, Respondent
6 was convicted of a misdemeanor violation of Penal Code 273.5(a)(1), infliction of corporal injury
7 to a spouse. The criminal violation occurred on-or about March 5, 2016.

8 March 31, 2016 Incident

9 21. On or about March 31, 2016, V reported that she had both an active criminal
10 protective order and temporary restraining order against Respondent. V stated Respondent had
11 been ordered to vacate their residence. Around midnight, Respondent entered the residence and
12 prevented V from calling 911 by taking her cell phone away from her. Respondent pushed V
13 several times, causing several scratches on V's hands. After Respondent took V's cell phone
14 away, she attempted to go outside the residence to get help. Respondent armed himself with a
15 knife and pointed it at her. Respondent told her to move away from the door or he would hurt
16 her. V tried to defend herself with a knife but Respondent took the knife away from her and
17 laughed at her. Respondent took V's property without permission including two purses, a
18 computer, and a cellphone and left the residence. V locked the doors to the residence and tried to
19 get some sleep.

20 22. On March 31, 2016, at 4:00 a.m. she heard Respondent trying to regain entry to the
21 residence. She was able to call 911 from an old cellular phone. Before police arrived Respondent
22 took another purse from V's residence. Police responded and arrested Respondent a short time
23 later. Respondent was still in possession of the knife he had used to threaten V and one of her
24 purses. The rest of V's property was found inside a nearby dumpster.

25 23. On July 17, 2017, in Sacramento Superior Court Case No. 16FE006645, Respondent
26 was convicted of a misdemeanor violation of Penal Code 166(c)(a) and 273.6, a violation of a
27 domestic violence restraining order, and a misdemeanor violation of Penal Code 484(a), petty
28 theft.

1 24. On July 21, 2017, Respondent was sentenced to three years' formal probation and
2 ordered to serve 364 days in custody in Sacramento Superior Court Case No. 16FE006645. The
3 Court suspended 184 days and ordered that Respondent serve 180 days in county jail.
4 Respondent was remanded to the custody of the Sacramento County Sheriff's Department.
5 Respondent was ordered to attend a domestic violence offender treatment program upon release
6 from custody.

7 25. On April 27, 2016, the Respondent wrote a letter to the Board reporting his domestic
8 violence arrests. Respondent stated in part, "It is clear that my wife and I are having serious
9 marital problems. I am currently seeing a counselor to deal with my personal issues, including
10 anger management."

11 26. As more fully set forth above, Respondent's license is subject to disciplinary action as
12 a result of him suffering multiple convictions for theft, domestic violence, and violation of a
13 restraining order that are substantially related to the practice of medicine.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(General Unprofessional Conduct)**

16 27. Respondent's license is subject to disciplinary action under sections 2234 of the Code
17 in that he committed general unprofessional conduct by not submitting to a Board ordered mental
18 health evaluation and by committing crimes substantially related to the practice of medicine. The
19 circumstances are as follows:

20 28. Complainant re-alleges paragraphs 10 through 26, and those paragraphs are
21 incorporated by reference as if fully set forth herein.

22 29. As more fully set forth above, Respondent's license is subject to disciplinary action
23 because he committed general unprofessional conduct by not submitting to a Board ordered
24 mental health evaluation and by committing crimes substantially related to the practice of
25 medicine.

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1. Revoking or suspending Physician's and Surgeon's Certificate Number A 101726, issued to David Minho Rhee, M.D.;
2. Revoking, suspending or denying approval of David Minho Rhee, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses;
3. Ordering David Minho Rhee, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

Kimberly Kirchmeyer
KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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